



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MEMORANDUM

OFFICE OF
WATER

SUBJECT: Award of United States-Mexico Border Program Grants Authorized by the Consolidated Appropriations Act, 2008

FROM: James A. Hanlon, Director
Office of Wastewater Management (4201M)

TO: Water Management Division Directors
Regions VI and IX

PURPOSE

This memorandum and attachment provide information and guidelines on how the Environmental Protection Agency (EPA) will award and administer the United States-Mexico Border Program grant funds appropriated in the State and Tribal Assistance Grants (STAG) account of the Agency's fiscal year (FY) 2008 appropriations. A similar memorandum will be issued annually to provide information on how the Agency intends to award and administer funds appropriated for the United States-Mexico Border Program. In the annual memorandum, the Agency will identify the portion of the available funds that are subject to the attached guidelines. The guidelines will not be reissued annually.

BACKGROUND

The EPA section of the Consolidated Appropriations Act, 2008, (P. L. 110-161), also referred to as the Agency's Fiscal Year (FY) 2008 Appropriations Act, includes \$20,000,000 for the United States-Mexico Border Program in the STAG account. Of the \$20,000,000 appropriated, Congress directed the Agency to provide \$5,000,000 to support previously funded projects in El Paso and Brownsville, Texas. The balance of funds is available for the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border.

The Consolidated Appropriations Act, 2008, also contains a rescission of 1.56 percent which applies to the funds appropriated for the United States-Mexico Border Program. The original amount appropriated for the United States-Mexico Border Program, as well as the actual amount available for grant award after the reduction due to the 1.56 percent rescission are as follows:

<u>Appropriation</u>	<u>1.56 % Rescission</u>	<u>Grant Amount</u>
\$20,000,000	\$312,000	\$19,688,000

The United States-Mexico Border Program funds will be awarded and administered by Region VI and Region IX. On September 28, 2000, the Assistant Administrator for Water and the Regional Administrators were delegated the authority to award grants and cooperative agreements for funds included in the STAG account. Accordingly, the Regions and Headquarters have the necessary authority to award grants and cooperative agreements for the United States-Mexico Border Program.

FY 2008 APPROPRIATIONS ACT - PROGRAM SPECIFIC GUIDELINES

The Agency's annual appropriations acts, the Consolidated Appropriations Act in FY 2008, define the scope of and contain the authority for the award of grants for the United States-Mexico Border Program. This section describes the Agency's interpretation and planned implementation of the program for FY 2008.

The Agency's FY 2008 Appropriations Act provides \$19,688,000, after rescission, for "architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission." The scope of work for grants awarded for the United States-Mexico Border Program must conform to the language contained in the Appropriations Act and the grant file should include documentation that describes the results of the discussions and consultations with the Border Environment Cooperation Commission (BECC). In implementing this program, EPA generally provides grant funding to the BECC for the Project Development Assistance Program (PDAP) and to the North American Development Bank (NADBank) for the Border Environment Infrastructure Fund (BEIF). BECC and NADBank then provide subgrants to support the development and construction of water and wastewater facilities within 62 miles of the U.S.-Mexico border. BEIF subgrants from the NADBank should contain documentation of the BECC's certification of the project at issue.

The Joint Explanatory Statement for Division F of the FY 2008 Appropriations Act - Department Of The Interior, Environment, and Related Agencies Appropriations Act, 2008, identifies two projects that are to be funded from funds available for the United States-Mexico Border Program: "\$5,000,000 is directed to the El Paso and Brownsville projects funded in prior years." The Brownsville and El Paso projects will be awarded by the EPA Region VI Office and administered consistent with the provisions contained in the memorandum entitled *Award of Special Appropriations Act Project Grants Authorized by the Agency's FY 2008 Appropriations Act(2008)*.

REVISIONS TO PAST GUIDELINES

On September 28, 2007, EPA published a notice in the Federal Register entitled "Award of United States-Mexico Border Program and Alaska Rural and Native Villages Program Grants Authorized by the Revised Continuing Appropriations Resolution, 2007." That notice contained the following provision:

Refinancing

Funds appropriated for the United States-Mexico Border Program or the Alaska Rural and Native Villages Program may not be awarded solely to repay loans received from a State Revolving Fund or other indebtedness unless the facts of the case are such that this is the only way to award the funds that were appropriated for the project. Any request to use United States-Mexico Border Program or Alaska Rural and Native Villages Program funds to repay a loan, in whole or in part, must be approved, in writing, by EPA Headquarters. The request, with sufficient supporting documentation, should be submitted to the Director, Office of Wastewater Management, (Mail Code 4201M), USEPA, 1200 Pennsylvania Avenue NW, Washington, D.C. 20460.

Although the above language was incorporated into past guidelines for the SAAP grants, it was an anomaly in 2007 that the language applied to the United States-Mexico Border Program. For clarification, United States-Mexico Border Program policy does allow appropriated funds to be used to support debt service costs in certain circumstances (see Robert Perciasepe's memorandum dated March 28, 1997 entitled EPA "Border Infrastructure Grants Program Project Affordability Guidelines"). Accordingly, when those specific circumstances are met, written approval from Headquarters is not needed. Therefore, the above referenced paragraph is not applicable to the United States-Mexico Border Program.

If you have any questions concerning the contents of this memorandum, you may contact me, or have your staff contact Lynn Stabenfeldt, Municipal Assistance Branch, Municipal Support Division, at (202) 564-0602.

cc: Municipal Construction Program Managers, Regions VI and IX
Regional NEPA Contacts, Regions VI and IX
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